

BEFORE THE COMMISSIONER OF INSURANCE
STATE OF COLORADO

Division of Insurance Case No. 231258

**STIPULATION FOR ENTRY OF FINAL AGENCY ORDER RE: NOTICE OF
SHOW CAUSE HEARING**

Division of Insurance,

Petitioner

vs.

Minnesota Surety and Trust Company

Respondent.

The Colorado Division of Insurance ("Division") and Minnesota Surety and Trust Company ("Minnesota Surety"), collectively referred to as the "Parties," hereby enter into the following Stipulation Re: Notice of Show Cause Hearing. The parties stipulate as follows:

1. On April 6, 2011 John J. Postolowski, Interim Commissioner of Insurance ("Commissioner") for the Colorado Division of Insurance entered a Notice of Show Cause Hearing to Minnesota Surety. Said Notice was duly and properly served via personal service upon the Company and its President, Peter Plunkett.
2. The Notice of Show Cause Hearing alleged Minnesota Surety had:
 - a. Committed prohibited acts as specified in § 10-1-110(1), C.R.S. for which the penalty is suspension or revocation of Minnesota Surety's certificate of authority to do business in the State of Colorado;
 - b. Committed acts prohibited by or in violation of Title 10, C.R.S. and Article 7 or Title 12, C.R.S., for which the penalty is suspension or revocation of Minnesota Surety's certificate of authority to do business in the State of Colorado;
 - c. Repeatedly failed to comply with the insurance laws and regulations of the State of Colorado for which the penalty is suspension or revocation of

Minnesota Surety's certificate of authority to do business in the State of Colorado.

3. Pursuant to § 10-1-110(2), C.R.S., the Commissioner may suspend or revoke the certificate of authority of a foreign or domestic insurance company that is in violation of Colorado insurance laws as set forth above, if he deems it in the best interest of the public and the policyholders of the company, notwithstanding any other provision in Title 10, C.R.S., Article 7 of Title 12, or Article 24, C.R.S.
4. The Show Cause Hearing, which was scheduled to commence on April 21, 2011 was continued pursuant to a Minute Order issued by Hearing Officer Akers on April 18, 2011. The hearing is currently scheduled to commence on April 26, 2011 and continue through April 28, 2011

FAILURE TO COMPLY WITH MARKET CONDUCT EXAMINATION SCOPE AND DATA REQUESTS

5. On December 3, 2010, the Division provided Minnesota Surety with written notification ("December 3, 2010 Call Letter") that it would conduct a market conduct examination ("MCE") of Minnesota Surety and its bail bond business in Colorado, covering the period of January 1, 2010 through December 31, 2010. The December 3, 2010 Call Letter advised Minnesota Surety that the MCE was to be conducted pursuant to §§ 10-1-203, 10-1-204, 12-7-108(6) and 12-7-113, C.R.S.¹
6. The December 3, 2010 Call Letter also informed Minnesota Surety that the MCE would include an examination of Minnesota Surety's operations and management; marketing and sales; producers and agents; underwriting, including applications, forms, rates, cancellations and declinations and; claims handling, to include bail bond forfeiture judgments and return of collateral.
7. The Division's December 3, 2010 Call Letter notified Minnesota Surety it was required to have an internal Examination Coordinator in place by December 17, 2010. The December 3, 2010 Call Letter also stated the MCE would commence on or after February 7, 2011.
8. In correspondence dated December 17, 2010, Peter Plunkett, President of Minnesota Surety, identified himself as the Minnesota Surety Examination Coordinator for the MCE.

¹ The December 3, 2010 Call Letter and all notifications described herein were sent to Minnesota Surety through its President, Peter Plunkett.

9. On January 3, 2011, the Division notified Minnesota Surety that the commencement of the MCE would occur on February 15, 2011 and requested confirmation from Minnesota Surety as to its availability for the entrance conference.
10. On January 5, 2011, Minnesota Surety confirmed its availability for a February 15, 2011 entrance conference.
11. On January 25, 2011, the Division sent Minnesota Surety correspondence wherein it confirmed the February 15, 2011 entrance conference and outlined that as a part of the MCE the Division "would conduct a detailed review of sample bail bond files from Minnesota Surety agents". Said January 25, 2011 correspondence also informed Minnesota Surety that the field work was estimated to take 60 days.
12. The commencement date of the entrance conference for the MCE was subsequently scheduled to occur, and did occur, on February 15, 2011.
13. On February 18, 2011, the Division provided Minnesota Surety with the Division's Procedural Information, Staffing and Expenses, Scope, Data Request, Equipment Checklist, and Comment Form Procedures ("Scope and Data Request").
14. The Scope and Data Request further identified the MCE was being called pursuant to §§ 10-1-203, 10-1-204, 10-1-205, 10-3-1106, 12-7-108(6) and 12-7-113, C.R.S., and that in the course of said MCE, the Commissioner, shall also perform his duty, as set forth at § 10-1-108(5), C.R.S., to investigate and examine the Company.
15. In addition to the areas of the examination identified above, the Scope and Data Request set forth that the Commissioner would examine Minnesota Surety's bail bond files, records or other documents for "any alteration, deletion, destruction, modification or revision of bail bond files, records or other documents after execution by "the" or "a" bail agent and/or after said file, record or other documents had been provided to the defendant/third party indemnitor or Colorado court or Company."
16. A detailed list of the required data and information, along with the format in which it was to be provided to the Division, was delineated in the 9-page Scope and Data Request provided to Minnesota Surety.

17. The Division required Minnesota Surety provide the data and information set forth in the Scope and Data Request to the Division on or before February 23, 2011.
18. On February 22, 2011 Minnesota Surety made a written request for a one day extension to provide the data and information set forth in the Scope and Data Request. On February 23, 2011, the Division granted said extension, up to and including February 24, 2011.
19. As of February 24, 2011, Minnesota Surety had failed to provide:
 - a. An alphabetical list by agent of commission paid (only a list showing the agency and aggregate commission paid was provided by Minnesota Surety);
 - b. A list of bonds issued (the list provided by Minnesota Surety did not detail sufficient bond information i.e. liability, premium etc.);
 - c. A list of bond premium receipts and bond collateral receipts;
 - d. A list of liens filed;
 - e. A list of premium refunds;
 - f. A claims procedure manual (a process was described in an email from Minnesota Surety but no manual existed/was provided);
 - g. Its bail recovery process (no formal process was identified by Minnesota Surety);
 - h. Procedures related to release of promissory notes, deed of trust or liquidation of assets (no formal process was identified by Minnesota Surety);
 - i. A signed comment form procedure statement;
20. Minnesota Surety had requested and been granted an extension to February 25, 2011 for underwriting items 1(a) and 1(b) on the Scope and Data Request.
21. On February 25, 2011 the Division sent written notification to Minnesota Surety informing it that the MCE would be expanded to cover the time frame from January 1, 2009 through December 31, 2010, rather than the original time frame of January 1, 2010 through December 31, 2010. The Division provided Minnesota Surety up to and through March 11, 2011 to provide the data and information set forth in the Scope and Data Request for the expanded time frame identified in the February 25, 2011 correspondence.
22. On February 26, 2011, Peter Plunkett, President of Minnesota Surety, acknowledged receipt of the February 25, 2011 notification

23. On March 1, 2011 the Division sent written notification to Minnesota Surety requiring that, in addition to the data and information that Minnesota Surety was required to provide to the Division pursuant to the Scope and Data request, all files pertaining to bail bonds written by Minnesota Surety authorized agents during calendar year 2010 were to be delivered by Minnesota Surety to the Division on or before March 11, 2011.
24. On March 2, 2011, Jimmy Potts, of Regulatory Consultants, Inc., the examination firm retained by the Division to conduct the MCE, sent written communication to Minnesota Surety advising Minnesota Surety that the data and information provided to the Division on February 24, 2011 and February 25, 2011, was deficient, incomplete and/or that certain data and information was missing. Said written communication provided a detailed outline of the areas of deficient, incomplete and/or missing data and information.
25. On March 2, 2011 Minnesota Surety requested the 2010 bail bond files be provided in different segments (rather than all at once) so as to prevent the active files from being out of its control for any lengthy period of time.
26. Minnesota Surety's concern about production of its 2010 bail bond files was a separate and distinct issue from the deficient, incomplete and/or missing data addressed in Mr. Pott's March 2, 2011 correspondence to Minnesota Surety.
27. On March 3, 2011 the Division modified its request for the provision of the 2010 bail bond files and allowed Minnesota Surety to provide its "inactive" 2010 bail bond files to the Division by March 11, 2011, with a subsequent two-part schedule being identified for provision of the "active" 2010 bail bond files.
28. As a result of Minnesota Surety's deficient and incomplete response to the February 18, 2011 Scope and Data Request, the Division sent Minnesota Surety a Supplemental Data Request on March 4, 2011 ("Supplemental Data Request") in an attempt to clarify the manner in which data and information requested in the February 18, 2011 Scope and Data Request was to be provided. Said Supplemental Data Request required the provision of the data and information to the Division no later than March 11, 2011, which correlated with the date for Minnesota Surety's production of its inactive 2010 bail bond files to the Division.
29. On March 7, 2011, Minnesota Surety again submitted a written request for an extension of time to provide responses to the Underwriting Questions 1(a) and 1(b) set forth in the Supplemental Data Request.

30. On March 8, 2011 the Division granted Minnesota Surety's request for an extension to provide certain responses to data requests as set forth in the Supplemental Data Request and provided a new due date of March 16, 2011 for said responses (including documents related thereto) to be provided to the Division. In said March 8, 2011 extension approval the Division stated "Please be aware March 16, 2011 is a firm deadline, and that additional extensions for the noted items will not be granted."
31. On March 7, 2011, Minnesota Surety submitted a written request for an extension of time wherein it requested until March 16, 2011 to provide the 2010 inactive bail bond files that were due on March 11, 2011.
32. On March 8, 2011, the Division granted Minnesota Surety's request for an extension of time to provide the 2010 inactive bail bond files and extended the deadline to March 16, 2011. In said March 8, 2011 extension approval the Division stated "Please be aware March 16, 2011 is a firm deadline, and that additional extensions for the noted items will not be granted."
33. Minnesota Surety failed to provide all its inactive 2010 bail bond files to the Division by March 16, 2011, and thus failed to timely submit the same for examination by the Division.
34. As of March 31, 2011, Minnesota Surety failed to provide all of its inactive 2010 bail bond files to the Division and thus failed to timely submit the same for examination by the Division.
35. Of those 2010 inactive bail bond files that were provided to the Division, numerous files were provided to the Division in a duffle bag, were in disarray, and in no logical or other order; and numerous bail bond files were missing required documents, including powers of attorney, collateral receipts and/or premium receipts.
36. Between March 16 and March 31, 2011, the Division made repeated demands upon Minnesota Surety to provide all of its 2010 inactive bail bond files to the Division. Although Minnesota Surety provided explanations and/or rationale for not having done so, Minnesota Surety continually stated it would comply with the Division's requests and provide all of the 2010 inactive bail bond files.
37. Minnesota Surety failed to provide all of its 2010 inactive bail bond files. Thus, Minnesota Surety failed to comply with the Division's request in a timely manner, failed to provide necessary documents required for completion of the MCE and impeded the Division's ability to proceed with the MCE.

38. Minnesota Surety failed to provide the data and information set forth in the Scope and Data Request by the February 24 and 25, 2011 deadlines and thus failed to timely submit the same for examination by the Division.
39. Minnesota Surety failed to provide the data and information set forth in the Scope and Data Request and the Supplemental Data Request by the March 11 and March 16, 2011 deadlines and thus failed to submit the same for examination by the Division.
40. As of March 31, 2011, Minnesota Surety failed to provide the data and information set forth in the Scope and Data Request and the Supplemental Data Request and thus failed to comply with the Division's request in a timely manner, failed to provide necessary documents required for completion of the MCE and impeded the Division's ability to proceed with the MCE.
41. Between March 16 and March 31, 2011, the Division made repeated demands upon Minnesota Surety for it to provide the data and information set forth in the Scope and Data Request and the Supplemental Data Request.
42. The MCE field work, estimated to take a total of 60 days, was unable to move forward due to Minnesota Surety's failure to timely provide the requested documents, data and information set forth in the Scope and Data Request and the Supplemental Data Request.
43. A Factual basis and credible evidence exists to revoke the Certificate of Authority of Minnesota Surety as a result of:
 - a. Its failure to submit to examination or any legal obligation relative thereto, pursuant to § 10-1-110(1)(f), C.R.S.;
 - b. Its failure to timely and completely provide the identified data and information pertaining to Minnesota Surety that was necessary to effectuate a thorough market conduct examination pursuant to §§ 10-1-201 through 10-1-205, 10-3-1106, 12-7-108(6) and 12-7-113, C.R.S.
 - c. Its failure to comply with the law of this state rendering its operations hazardous to the public or to its policyholders, pursuant to § 10-1-110(1)(i), C.R.S.

- d. Failure of its officers, directors, employees or agents to submit to examination or to comply with reasonable written requests of the examiners pursuant to § 10-1-204(2)(b)(I), C.R.S.

EMERGENCY CEASE AND DESIST ORDER

44. After issuing a subpoena and taking the Thursday, February 10, 2011 sworn statement of a Minnesota Surety agent, and finding credible evidence existed that Minnesota Surety was altering its 2010 bail bond files prior to the commencement of the MCE, on or about Tuesday, February 15, 2011, the Commissioner issued and serviced an Emergency Cease and Desist Order on Minnesota Surety, including ten Minnesota Surety officers, directors, agents or employees.
45. In issuing the Emergency Cease and Desist Order the Commissioner exercised the authority granted to him pursuant to § 10-1-110(4) C.R.S.
46. Said emergency Cease and Desist Order required that any person possessing or having control over the books, records, accounts, tapes, folders, binders, electronic compilations of documents, emails, memos, letters and other written correspondence whether transmitted electronically or on paper related to the property or business, assets or affairs of Minnesota Surety's bail bond business in the State of Colorado immediately cease any alteration, modification, redaction or revision of any books, records, accounts, tapes, folders, binders, electronic compilations of documents, emails, memos, letters and other written correspondence whether transmitted electronically or on paper or any other documents related to the property, business, assets or affairs of Minnesota Surety's bail bond operations or business in the State of Colorado; and be immediately prohibited from removing or destroying any books, records, accounts, tapes, folders, binders, electronic compilations of documents, emails, memos, letters and other written correspondence whether transmitted electronically or on paper document, including contracts or stamps of any kind, which is or has at any time been contained in any file, folder, binder, record, book, account, electronic compilation of record or other storage means related to the property, business, assets or affairs of Minnesota Surety's bail bond operations or business in the State of Colorado.

MARKET CONDUCT EXAMINATION RECORD ALTERATION

47. Pursuant to his authority granted in § 10-1-204(3), C.R.S., in February 2011 the Commissioner issued subpoenas and directed examinations under oath to be taken of eleven Minnesota Surety employees, agents, officers or directors.

48. A Factual basis and credible evidence exists to revoke the Certificate of Authority of Minnesota Surety as a result of:

- a. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated Minnesota Surety officers, directors, employees or agents, negligently made alterations to the entries and memorandum upon the books and papers of the company or upon any statement filed or offered to be filed in the Division or used in the course of any examination, inquiry or investigation, in a manner that could result in deception of the Commissioner or any person appointed by the commissioner, to make such examination, inquiry or investigation pursuant to § 10-1-204(5), C.R.S.;
- b. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that in January 2011, prior to the commencement of the MCE, Minnesota Surety directors, officers, agents or employees created, or caused to be created, four sets of various ink "stamps," which contained information required by statute and regulation to be contained on bail bond documents written in the State of Colorado, with the intent to utilize said "stamps," after the fact, on 2010 bail bond documents written in the State of Colorado;
- c. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that in January and February 2011, after notice to Minnesota Surety of the forthcoming MCE, but prior to the commencement of the MCE, Minnesota Surety directors, officers, agents or employees did negligently, after the fact, place these "stamps" onto a minimum of 4,000 bail bond documents that were actually written and effectuated in calendar year 2010.
- d. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated hundreds of consumers/defendants/indemnitors who secured bail bonds from Minnesota Surety in 2010, received copies of bail bond documents that were different than the bail bond documents which are presently retained in the Minnesota Surety bail bond agent 2010 bail bond files, due to the fact that the copies and/or originals retained in the Minnesota Surety bail bond agents files had been altered after the fact;

- e. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that many of these files contained “translation stamps,” intended to identify that the bail bond document was read in its entirety to a consumer, defendant or indemnitor who did not speak English as a primary language. In fact, such “translation stamp” was placed on the 2010 bail bond documents after the fact, sometime in January or February 2011;
- f. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that Minnesota Surety used a form entitled “Rate Deviation Form,” in or about January of 2011. The Rate Deviation Form identifies the non-discriminatory reason a bail bond agent might charge a premium of less than 15 per cent. In January and February 2011, Minnesota Surety placed, after the fact, the “Rate Deviation Form,” in hundreds of bail bond files actually written in 2010, which could have resulted in an appearance that the files were compliant for the MCE.
- g. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated negligence that could have resulted in deception of the Commissioner and/or the Division and its examiners by altering the calendar year 2010 bail bond documents retained by Minnesota Surety or its agents, after the fact, so as to appear as if the documents were in compliance at the time the bail bond was actually written in 2010.
- h. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that in January and February 2011, Minnesota Surety created contracts between itself and several of its Colorado agents, which did not exist in 2010, which established a contractual relationship required by Colorado statute and regulation between a surety and its agents;
- i. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated Minnesota Surety requested and/or required that, prior to the commencement date of the MCE February 15, 2011, each of its Colorado agents who had not previously executed written contracts to sign and back date contracts to the date of original agent appointment and prior to December 31, 2010;

- j. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated at least one of those contracts being back dated and signed by an agent with a date that was prior to that agent becoming a licensed bail bond agent in the state of Colorado;
 - k. The sworn testimony and documents/exhibits in said examinations and documents produced pursuant to subpoena demonstrated that the back dated contract altered the agents contractual liability with Minnesota Surety for bail bonds written by that agent during calendar year 2010, as said contract set forth the financial terms and other obligations between the bail bond agent and the surety.
 - l. The sworn testimony and documents/exhibits in said examinations, documents produced pursuant to subpoena and review of the deficient and incomplete data and information Minnesota Surety provided to the Division demonstrated Minnesota Surety agents wrote bail bonds, in some instances, prior to the date the agents were appointed, and in some instances, prior to the date the agents were licensed as bail bond agents in the State of Colorado;
 - m. The sworn testimony and documents/exhibits in said examinations, documents produced pursuant to subpoena, and documents obtained in the MCE, demonstrated Minnesota Surety negligently oversaw and directed these agents in a manner that could have resulted in deception of the Division and/or its agents by negligently altering material facts in the books, reports and other written statements of Minnesota Surety; negligently omitting or failing to make a true entry of material facts pertaining to the business of insurance in the books, reports, or other written statements of Minnesota Surety;
49. A factual basis and credible evidence exists to demonstrate Minnesota Surety, an insurer authorized to conduct business in the state of Colorado, should have known about the unfair business practices of its insurance producers and thus may be held financially responsible for its producers who, while acting on behalf of the insurer, engaged in unfair business practices that violated provisions of Title 10, C.R.S., as defined in § 10-3-131, C.R.S.

WHEREFORE, the parties further stipulate that

50. The Commissioner terminates the MCE of Minnesota Surety for calendar years 2009 and 2010 due to Minnesota Surety's negligent failure to timely provide the

MCE examiners with the necessary data and documents set forth in the Scope and Data Request and Supplemental Data Request, which impeded the examination from moving forward and impeded the examiners ability to select valid samples for examination. Minnesota Surety's negligent alteration of said files has rendered the files in a condition whereby they cannot be fully and completely examined for compliance with Colorado insurance law. Minnesota Surety has failed to comply with §§ 10-1-203, 204 and 205, 10-3-1106, 12-7-108(6) and 12-7-113, C.R.S.

51. Pursuant to § 10-1-204(8), C.R.S., the Commissioner had the authority to make public any examiner or company work papers or other documents, or any other information discovered or developed during the course of the MCE, in furtherance of legal and regulatory action the commissioner had deemed appropriate.
52. Minnesota Surety's certificate of authority in the State of Colorado is hereby revoked effective May 22, 2011.
53. Nothing herein shall release Minnesota Surety as the responsible entity from its obligation to service any existing policies of insurance and/or bonds issued in the State of Colorado. Said responsibility shall include, but is not limited to, timely returning consumer collateral, cooperating with Division investigations and paying forfeitures to the court.
54. Other than as stated in the preceding paragraph, Minnesota Surety shall be allowed 30 calendar days from the date of execution of this Stipulation to conclude its affairs and business in the State of Colorado. Minnesota Surety shall notify by the close of business on April 26, 2011, its officers, agents and employees that they shall cease selling, soliciting and negotiating insurance policies, bail bonds or any other insurance related product. Minnesota Surety shall file a notice of termination for each of its agents, and provide the same to the Division and the agent, no later than Friday, May 9, 2011, via certified mail under C.R.S. 10-2-415.7(1).
55. Minnesota Surety understands the Commissioner does not have control to exercise authority over law enforcement or other agencies. Nothing herein shall prohibit the Commissioner or the Division staff from testifying or providing examiner or company work papers or other documents, if compelled to do so, under subpoena, court order or other force of law regarding the matters set forth herein or any other matter related to Minnesota Surety's business conduct in the State of Colorado.

56. Minnesota Surety shall pay a civil penalty to the Division for the cited violations of Colorado law, due and owing within 14 days of the date of execution of this Stipulation, in the amount of Two Hundred Thousand Dollars (\$200,000.00).
57. Minnesota Surety shall pay a civil penalty to the Division for the cited violations of Colorado law, in the amount of One Million Dollars (\$1,000,000.00). Said One Million Dollar penalty shall be stayed, and shall become due and payable only if one or more of the following events occur:
- a. Minnesota Surety fails to pay the Two Hundred Thousand Dollar penalty set forth in paragraph 56 above. In said event, the amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00) would be immediately due and owing to the Division by Minnesota Surety;
 - b. Minnesota Surety applies for a certificate of authority in the State of Colorado within five years of the date of execution of this Stipulation;
 - c. Minnesota Surety conducts or is involved in any insurance related business in the State of Colorado within five years of the date of execution of this Stipulation;
 - d. Minnesota Surety applies for any insurance related license in the State of Colorado within five years of the date of execution of this Stipulation;
 - e. Peter Plunkett, the current President of Minnesota Surety, individually applies for any insurance related license in the State of Colorado within five years of the date of execution of this Stipulation;
 - f. Peter Plunkett, the current President of Minnesota Surety, individually conducts or is involved in any insurance related business, directly or indirectly, in the State of Colorado within five years of the date of execution of this Stipulation;
58. As the result of the agreements reached herein, the Commissioner shall not exercise his authority to make a referral to criminal law enforcement authorities as is permitted under § 10-1-108(5) C.R.S. In the event Minnesota Surety does not make the aforementioned payment of Two Hundred Thousand Dollars (\$200,000.00) within 14 days of the date of execution of this Stipulation, this provision shall be null and void and the Commissioner may exercise his right to make a referral to criminal law enforcement authorities to the extent he deems so justified.
59. All rights of any consumer, defendant or third party indemnitor are hereby reserved. Nothing contained in this Stipulation shall impede, prohibit or constrain any consumer, defendant or third party indemnitor from bringing any action, claim, litigation or other legal action against Minnesota Surety, its officers, agents


or employees for any loss of collateral, loss of premium, fraud, damage, or other harm that may have resulted, or could result in the future, from any of the actions of Minnesota Surety as set forth herein.

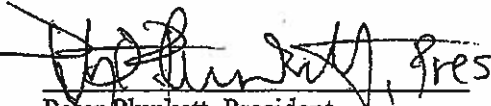
60. Minnesota Surety shall remain liable for timely payment of all invoices from Regulatory Consultants, Inc., for its time and costs associated with its market conduct examination of Minnesota Surety, up to and including April 6, 2011, the date the Commissioner suspended the examination. Minnesota Surety shall retain its rights to objection to the amount of those fees or to contest the amount of fees pursuant to 10-1-204(6)(b).
61. The hearing scheduled to commence on April 26, 2011 is hereby vacated.
62. By entering into this Stipulation, Minnesota Surety knowingly and voluntarily waives its rights pursuant to §§ 24-4-104, 105 and 106, C.R.S., including but not limited to, a hearing in this matter; the right to be represented at such hearing by counsel chosen and retained by Minnesota Surety; the right to present a defense, oral and documentary evidence, and cross-examine witnesses at such hearing; and the right to seek judicial review of this Stipulation and the Final Agency Order approving this Stipulation.
63. The Division and Minnesota Surety agree that this Stipulation is a full and final settlement of the issues raised in the Notice of Show Cause Hearing or that could have been raised at the April 26, 2011 hearing. This Stipulation is intended to resolve all of the civil claims between the Commissioner, the Division and Minnesota Surety, its officers, directors and employees as of the date of the Stipulation.
64. Minnesota Surety understands and acknowledges the Division may take such lawful steps as may be required or appropriate to investigate and determine whether Minnesota Surety is in compliance with the Stipulation and the Final Agency Order approving this Stipulation, and take any action it deems appropriate to enforce compliance with the terms of the Stipulation and Final Agency Order.
65. In the event the Division takes action relating to alleged violations of this Stipulation or Final Agency Order approving this Stipulation, said Stipulation and Final Agency Order shall be admissible in full in that proceeding for any purpose.
66. Minnesota Surety enters into this Stipulation freely and voluntarily, after having the opportunity to consult with counsel of its choice, and with full understanding

and acceptance of the legal consequences of this Stipulation and the Final Agency Order approving this Stipulation.

67. Minnesota Surety understands that this Stipulation and the Final Agency Order approving this Stipulation shall be reported to the National Association of Insurance Commissioners pursuant to §§ 10-2-416(5)(e) and 10-2-803(2), C.R.S.
68. Invalidation of any provision of this Stipulation or the Final Agency Order approving this Stipulation by a court of competent jurisdiction will in no way affect any other provisions, which shall remain in full force and effect.
69. This Stipulation and Final Agency Order embodies the entire agreement between Minnesota Surety and the Division, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.
70. Upon the Commissioner's entry of the Final Agency Order approving this Stipulation, this Stipulation and Final Agency Order shall be a public record in the custody of the Division under the Colorado Public Records Act, § § 24-72-101, *et seq.*, C.R.S.
71. This Stipulation is subject to approval by the Commissioner or his designee, and shall become binding upon the parties hereto upon such approval. In the event the Commissioner does not approve this Stipulation, the parties shall retain all claims and defenses available to them had this Stipulation not been entered into by the parties.
72. For the purpose of this agreement, a facsimile or an email signature shall have the same effect as an original signature.

Signed and dated this 22nd day of April.



Peggy A. Brown, Esq.
Deputy Commissioner of Consumer
Affairs


Peter Plunkett, President
Minnesota Surety and Trust Company


Peter Plunkett, Individually

Approved as to Form:

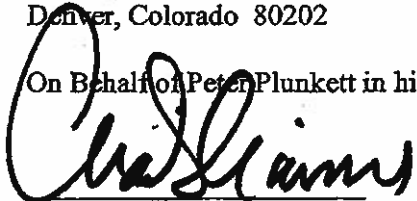
Attorney General, State of Colorado


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On Behalf of Minnesota Surety

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On Behalf of Peter Plunkett in his Individual Capacity


CHAD D. WILLIAMS, 30917
Davis, Graham & Stubbs LLP
1550 Seventeenth Street
Denver, Colorado 80202

Signed and dated this 22nd day of April.

Peggy A. Brown, Esq.
Deputy Commissioner of Consumer
Affairs

Peter Plunkett, President
Minnesota Surety and Trust Company


Peter Plunkett, Individually

Approved as to Form:

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On Behalf of Minnesota Surety



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